

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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INTERNATIONAL MARKETS LIVE, INC.,

Case No. 2:18-cv-00187-JAD-GWF

Plaintiff,

V₁

ROBERT HALTERMAN, et al.,

ORDER

Defendants.

12 This matter is before the Court on Defendant Scott Carney's Motion to Stay Discovery
13 (ECF No. 24), filed on June 12, 2018. To date, no party has filed an opposition to this motion and
14 the time for response has now expired.

BACKGROUND

16 This matter arises from allegations of defamation per se, trade libel, tortious interference
17 with contractual relations, tortious interference with prospective economic advantage, and civil
18 conspiracy. *See Complaint* (ECF No. 2). Defendant Carney's motion to dismiss seeks dismissal
19 of Plaintiff's amended complaint for lack of personal jurisdiction, improper venue, and for failure
20 to state a claim. *See* ECF No. 23. Defendant requests that the Court stay discovery pending a
21 ruling on his motion to dismiss or, in the alternative, to transfer this action to the Southern District
22 of Florida.

DISCUSSION

24 The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of
25 discovery when a potentially dispositive motion is pending. See *Skellerup Indus. Ltd. v. City of*
26 *L.A.*, 163 F.R.D. 598, 600-1 (C.D. Cal. 1995). Ordinarily, a dispositive motion does not warrant
27 a stay of discovery. See *Twin City Fire Insurance v. Employers of Wausau*, 124 F.R.D. 652, 653
28 (D. Nev. 1989). See also *Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554,

1 556 (D. Nev. 1997). The moving party carries the heavy burden of making a strong showing of
 2 why discovery should be denied. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev.
 3 2013).

4 Courts have broad discretionary power to control discovery. See *Little v. City of Seattle*,
 5 863 F.2d 681, 685 (9th Cir. 1988). When deciding whether to grant a stay of discovery, the Court
 6 is guided by the objectives of Fed. R. Civ. Pro. 1 that ensures a “just, speedy, and inexpensive
 7 determination of every action.” *Kor Media Group*, 294 F.R.D. at 581. The Court may grant a
 8 motion to stay discovery when “(1) the pending motion is potentially dispositive; (2) the
 9 potentially dispositive motion can be decided without additional discovery; and (3) the Court has
 10 taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced
 11 that the plaintiff will be unable to state a claim for relief.” *Id.*

12 Common examples of when a stay is warranted are cases involving jurisdiction, venue, or
 13 immunity as preliminary issues. *Twin City Fire Ins. Co.*, 124 F.R.D. at 653. “[A] pending motion
 14 challenging jurisdiction strongly favors a stay, or at minimum, limitations on discovery until the
 15 question of jurisdiction is resolved.” *AMC Fabrication, Inc. v. KRD Trucking W., Inc.*, 2012 WL
 16 4846152, at *2 (D. Nev. Oct. 10, 2012). A motion challenging personal jurisdiction, however,
 17 does not mandate a stay of discovery. *Id.* The Court’s view of jurisdiction in this matter may
 18 differ from the assigned district judge and it is the assigned district judge who will make the
 19 ultimate determination on whether there is personal jurisdiction. *Id.* at *4.

20 After conducting its “preliminary peek” of Defendant Carney’s motion to dismiss, the
 21 Court finds that a stay of discovery is warranted. The standard to grant a stay of discovery pending
 22 a motion to dismiss based on a lack of personal jurisdiction or improper venue is less rigorous than
 23 the standard to stay discovery pending a motion to dismiss for failure to state a claim under Fed.
 24 R. Civ. P. 12(b)(6). Defendant Carney’s motion to dismiss sets forth a lack of personal jurisdiction
 25 and improper venue that is sufficient to grant a stay of discovery in this matter. In addition, Local
 26 Rule 7-2(d) provides that “The failure of an opposing party to file points and authorities in response
 27 to any motion shall constitute a consent to the granting of the motion.” Plaintiff did not file points
 28

1 and authorities in response to Defendant's instant motion to stay. Therefore, Plaintiff is considered
2 to have consented to the granting of Defendant's motion under LR 7-2(d). Accordingly,

3 **IT IS HEREBY ORDERED** that Defendant Scott Carney's Motion to Stay Discovery
4 (ECF No. 24) is **granted**.

5 Dated this 11th day of July, 2018.

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8 GEORGE FOLEY, JR.
9 UNITED STATES MAGISTRATE JUDGE
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